

Gender Equality Bill

Exposure Draft

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Victoria

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Part 1—Preliminary

1 Purposes

The main purposes of this Act are—

- (a) to provide for—
 - (i) overarching Gender Equality Principles; and
 - (ii) actions for achieving gender equality; and

- (b) to enable defined entities to be prescribed and to require them to take certain actions relating to gender equality, having regard to the Gender Equality Principles; and
- (c) to empower the Finance Minister and the Secretary to issue guidelines to assist defined entities to comply with this Act; and
- (d) to provide for the publication of the names of non-complying defined entities in certain circumstances;
- (e) to establish the Ministerial Council on Women's Equality.

2 Commencement

- (1) Subject to subsection (2), this Act comes into operation on a day or days to be proclaimed.
- (2) If a provision of this Act does not come into operation during the period of 12 months beginning on the day on which this Act receives the Royal Assent, it comes into operation on the day after the end of that period.

3 Object of Act

The object of this Act is to promote and encourage progress towards achieving gender equality and improving the status of women.

4 Definitions

In this Act—

actions for achieving gender equality means the actions set out in section 8;

defined entity means an entity prescribed under section 6;

Finance Minister means the Minister administering Part 7 of the **Financial Management Act 1994**;

gender equality means equality of rights, opportunities, responsibilities and outcomes between people of different genders;

Gender Equality Action Plan means a Gender Equality Action Plan referred to in section 10;

Gender Equality Principles means the principles set out in section 7;

gender impact analysis means a process that—

- (a) assesses the effects of existing and proposed policies, programs, services and budgets on people of different genders; and
- (b) may be used to address disparities with informed and equitable options;

Ministerial Council on Women's Equality means the Ministerial Council on Women's Equality referred to in section 19;

public entity has the same meaning as it has in the **Public Administration Act 2004**;

public service body has the same meaning as it has in the **Public Administration Act 2004**;

special body has the same meaning as it has in the **Public Administration Act 2004**;

Secretary means the Secretary to the Department of Health and Human Services;

State Gender Equality Plan means the State Gender Equality Plan designated by the Minister under section 16(1);

State Gender Equality Plan annual report means the State Gender Equality Plan annual report prepared under section 16(4);

workplace gender equality indicators means the following—

- (a) gender composition of the workforce;
- (b) gender composition of governing bodies;
- (c) equal remuneration irrespective of gender;
- (d) availability and utility of terms, conditions and practices relating to flexible working arrangements and to working arrangements supporting workers with family or caring responsibilities;
- (e) consultation with workers on issues concerning gender equality in the workplace;
- (f) any other prescribed matters.

5 Act does not derogate from operation of other Acts

This Act is not intended to derogate from the operation of any other Act.

Part 2—Defined entities must advance and promote gender equality

Division 1—Defined entities

6 Defined entities may be prescribed

The regulations may prescribe one or more of the following to be a defined entity for the purposes of this Act—

- (a) a public service body;
- (b) a public entity;
- (c) a special body;
- (d) a Council within the meaning of the **Local Government Act 1989**;
- (e) Court Services Victoria established under section 5 of the **Court Services Victoria Act 2014**;
- (f) a university within the meaning of the **Education and Training Reform Act 2006**;
- (g) the Office of Public Prosecutions within the meaning of the **Public Prosecutions Act 1994**.

Division 2—Gender Equality Principles and actions for achieving gender equality

7 Gender Equality Principles

- (1) The Gender Equality Principles are set out in the following subsections.
- (2) All Victorians should live in a safe and equal society, have access to equal power, resources and opportunities and be treated with dignity, respect and fairness.

- (3) Gender equality benefits all Victorians, regardless of gender.
- (4) Gender equality is a human right and precondition to social justice.
- (5) Gender equality brings significant economic, social and health benefits for Victoria.
- (6) Gender equality is a precondition for the prevention of family violence and other forms of violence against women and girls.
- (7) Advancing gender equality is a shared responsibility across the Victorian community.

8 Actions for achieving gender equality

The actions that defined entities must consider including in their Gender Equality Action Plans for the purpose of achieving gender equality are as follows—

- (a) promoting and advancing gender equality;
 - (b) making reasonable adjustments and implementing special measures to achieve substantive gender equality;
 - (c) recognising that an individual's experience of gender inequality may be compounded by other forms of disadvantage and discrimination;
 - (d) having regard to—
 - (i) the negative impacts of gender stereotypes on all Victorians; and
 - (iii) the importance of challenging gender stereotypes;
 - (e) collecting gender-disaggregated data to measure progress towards achieving gender equality.
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9 Division does not give rise to legal rights, etc.

The Parliament does not intend by this Division—

- (a) to create in any person any legal right or give rise to any civil cause of action; or
- (b) to affect in any way the interpretation of any law in force in Victoria; or
- (c) to affect the validity, or provide grounds for review, of any judicial or administrative act or omission.

Division 3—Gender Equality Action Plans

10 Gender Equality Action Plans to be prepared

- (1) A defined entity must prepare Gender Equality Action Plans in accordance with this section for the purposes of furthering the Gender Equality Principles and taking the actions for achieving gender equality.
 - (2) A defined entity must—
 - (a) prepare its first Gender Equality Action Plan during the 12 month period beginning when the entity becomes a defined entity, and provide the Plan to the Secretary before the end of that period; and
 - (b) prepare a Gender Equality Action Plan before the end of each subsequent 4 year period, beginning when the first Gender Equality Action Plan was provided to the Secretary.
 - (3) A defined entity must report on the defined entity's Gender Equality Action Plan in the annual report of the defined entity, or otherwise as prescribed.
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11 What Gender Equality Action Plans must include

- (1) A defined entity's Gender Equality Action Plan must—
 - (a) specify how the defined entity will further the Gender Equality Principles and take the actions for achieving gender equality; and
 - (b) specify particular strategies and initiatives to be implemented by the defined entity to promote gender equality, with consideration given to the prescribed workplace gender equality indicators; and
 - (c) state whether the defined entity has implemented gender impact analysis and—
 - (i) if it has, the outcome of the analysis, and how the entity will strengthen its operations having regard to the analysis; or
 - (ii) if it has not, that the defined entity will implement gender impact analysis over the next 4 years; and
 - (d) if the defined entity is required to take reasonable steps and demonstrate reasonable progress towards meeting gender equality targets, set out strategies and initiatives to achieve the targets.
 - (2) In preparing a Gender Equality Action Plan, a defined entity must have regard to the State Gender Equality Plan.
 - (3) The development of a Gender Equality Action Plan, and strategies and initiatives contained in it, must include an examination of data and evidence in relation to gender equality.
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12 Certain defined entities are taken to have prepared Gender Equality Action Plans

A defined entity is taken to have prepared a Gender Equality Action Plan in accordance with section 10 if the Secretary is satisfied that—

- (a) another report or document prepared by the defined entity—
 - (i) specifies the matters required by section 11(1)(a) and (b); and
 - (ii) states the matters required by section 11(1)(c) and (d); and
- (b) in relation to specifying and stating those matters, the defined entity has complied with section 11(2) and (3); and
- (c) the other report or document has been prepared and provided to the Secretary within the period referred to section 10(2)(a) or (b), as the case requires, or within such other period as the Secretary considers appropriate.

Division 4—Procurement guidelines

13 Finance Minister may issue procurement guidelines

- (1) The Finance Minister may, in consultation with the Minister, issue procurement guidelines for the purposes of the promotion and advancement of gender equality by defined entities.
- (2) Defined entities must have regard to any guidelines issued under subsection (1) in developing and implementing procurement policies and practices.

Division 5—Gender equality targets

14 Regulations relating to gender equality targets

- (1) The regulations may prescribe gender equality targets.
- (2) A defined entity must take reasonable steps and demonstrate reasonable progress towards meeting the prescribed gender equality targets that apply to the defined entity.
- (3) A defined entity must—
 - (a) report on the defined entity's progress towards meeting the gender equality targets that apply to the defined entity in the annual report of the defined entity, or otherwise as prescribed; and
 - (b) if the defined entity has not met the gender equality targets that apply to the defined entity, explain in the report why the targets have not been met.

Division 6—Guidelines

15 Guidelines

- (1) The Secretary may issue guidelines, not inconsistent with procurement guidelines issued by the Finance Minister under section 13(1), for the purposes of assisting defined entities to meet applicable obligations in relation to—
 - (a) preparing and implementing Gender Equality Action Plans; and
 - (b) meeting gender equality targets.
 - (2) Defined entities must have regard to any guidelines issued under subsection (1).
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Part 3—State Gender Equality Plan

16 Minister must ensure there is a State Gender Equality Plan

- (1) The Minister must ensure that a plan designated, in writing, by the Minister to be the State Gender Equality Plan is maintained at all times.
- (2) The State Gender Equality Plan must set out a framework for coordinated action to be taken in Victoria to build the attitudinal and behavioural change required to improve gender equality.
- (3) The State Gender Equality Plan—
 - (a) must have regard to the Gender Equality Principles and the actions for achieving gender equality; and
 - (b) must include an outcomes framework in relation to the matters included in it.
- (4) The Minister must each year prepare a State Gender Equality Plan annual report about progress towards implementing the State Gender Equality Plan.
- (5) The Minister must table the State Gender Equality Plan annual report in each House of the Parliament within 10 sitting days of the report's completion.

17 Secretary may issue a notice to non-complying defined entities

- (1) The Secretary may issue a notice, in writing, to a defined entity if the Secretary reasonably believes that the defined entity—

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Part 3—State Gender Equality Plan

- (a) is required by this Act to prepare a Gender Equality Action Plan; and
- (b) has not done one or more of the following as required by this Act—
 - (i) prepared a Gender Equality Action Plan;
 - (ii) reported on the defined entity's Gender Equality Action Plan;
 - (iii) taken reasonable steps and demonstrated reasonable progress towards meeting gender equality targets (if applicable);
 - (iv) had regard to procurement guidelines issued under section 13(1) in developing and implementing procurement policies and practices.
- (2) The notice may require the defined entity to do one or more of the following within the period of not less than 28 days specified in the notice—
 - (a) explain why the defined entity has not done thing referred to in subsection (1);
 - (b) do a thing referred to in subsection (1);
 - (c) demonstrate progress towards doing a thing referred to in subsection (1).
- (3) A defined entity must comply with a notice issued to the defined entity under subsection (1) within the period specified in the notice.

18 Publication of names of non-complying defined entities in the State Gender Equality Plan annual report

- (1) The State Gender Equality Plan annual report may—
 - (a) name defined entities that have failed to comply with a notice under subsection 17(1); and
 - (b) set out details of the non-compliance.
- (2) Before a defined entity is named and details of the defined entity's non-compliance are included in the State Gender Equality Plan annual report, the Secretary must—
 - (a) issue a notice, in writing, to the defined entity advising the defined entity—
 - (i) that it is proposed to name the defined entity and set out details of the entity's non-compliance in the State Gender Equality Plan annual report; and
 - (ii) that the defined entity may respond to the proposal within the period of not less than 28 days specified in the notice; and
 - (b) if the defined entity responds within the period specified in the notice, consider the response in deciding whether to name the defined entity and set out details of the entity's non-compliance in the State Gender Equality Plan annual report.

Part 4—Ministerial Council on Women's Equality

19 Establishment of Ministerial Council on Women's Equality

- (1) There is to be a Ministerial Council on Women's Equality.
 - (2) The functions of the Ministerial Council on Women's Equality are to provide advice to the Minister on the following—
 - (a) future priorities and government action to achieve gender equality in Victoria;
 - (b) the development of strategies to build the capacity of defined entities and the Victorian community to support gender equality;
 - (c) best practice examples of initiatives advancing gender equality, and how to promote these initiatives to defined entities and the Victorian community;
 - (d) amendments to this Act or the regulations;
 - (e) any other prescribed matters in relation to the following—
 - (i) the Gender Equality Principles;
 - (ii) the actions for achieving Gender Equality.
 - (3) The Ministerial Council on Women's Equality is a public entity for the purposes of the **Public Administration Act 2004**.
 - (4) The Ministerial Council on Women's Equality is subject to any written directions of the Minister in relation to the Council's functions.
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20 Composition of Ministerial Council on Women's Equality

- (1) The Minister must appoint to the Ministerial Council on Women's Equality at least 8, but not more than 14, members under section 21.
- (2) In appointing the members of the Ministerial Council on Women's Equality, the Minister must ensure—
 - (a) that the membership of the Council reflects the diversity of Victorian women; and
 - (b) that Aboriginal persons are represented on the Council.
- (3) The Minister must appoint one of the members of the Ministerial Council on Women's Equality as the Chairperson of the Council.
- (4) The Minister must appoint one of the members of the Ministerial Council on Women's Equality as the Deputy Chairperson of the Council.
- (5) If the Chairperson is absent or unable to perform their functions, the Deputy Chairperson must act as Chairperson and, while acting, has all the functions, duties and powers of the Chairperson.

21 Appointment

- (1) The Minister may appoint a person to be a member of the Ministerial Council on Women's Equality.
- (2) A member of the Ministerial Council on Women's Equality is entitled to be paid the remuneration and allowances specified in the member's instrument of appointment.
- (3) A member of the Ministerial Council on Women's Equality holds office on a part-time basis.

- (4) A member of the Ministerial Council on Women's Equality holds office for a period of up to 3 years specified in the member's instrument of appointment.
- (5) A member of the Ministerial Council on Women's Equality is eligible for re-appointment.
- (6) The instrument of appointment of a member of the Ministerial Council on Women's Equality may specify terms and conditions of appointment.
- (7) The **Public Administration Act 2004** (other than Part 3 of that Act) applies to a member of the Ministerial Council on Women's Equality in respect of the office of that member.

22 Cessation of appointment

- (1) The Minister may, at any time and for any reason, remove a member of the Ministerial Council on Women's Equality from office by written notice given to the member.
- (2) A member of the Ministerial Council on Women's Equality may resign from office by written notice given to the Minister.

23 Proceedings of Ministerial Council on Women's Equality

- (1) The Chairperson of the Ministerial Council on Women's Equality may at any time convene a meeting of the Council.
 - (2) The Chairperson of the Ministerial Council on Women's Equality or, in the absence of the Chairperson the Deputy Chairperson, must preside at a meeting of the Council.
 - (3) A majority of the members for the time being in office constitutes a quorum of the Ministerial Council on Women's Equality.
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- (4) A question arising at a meeting of the Ministerial Council on Women's Equality must be determined by a majority of votes of members present and voting on that question and, if the voting is equal, the member presiding has a casting vote as well as a deliberative vote.
- (5) Subject to this Part, the Ministerial Council on Women's Equality may regulate its own proceedings.

24 Reports of Ministerial Council on Women's Equality

- (1) The Chairperson of the Ministerial Council on Women's Equality must provide a report, in writing, to the Minister during the period of 6 months beginning on the appointment of at least 8 members of the Council.
- (2) The report must relate to the priorities of the Ministerial Council on Women's Equality in relation to the promotion and advancement of gender equality.
- (3) In addition to the report required to be prepared under subsection (1), the Minister may request that the Chairperson of the Ministerial Council on Women's Equality provide a report, in writing, to the Minister on any matter relating to the Council's functions.

25 Review of Ministerial Council on Women's Equality

- (1) The Minister must cause a review of the role and operation of the Ministerial Council on Women's Equality to be completed, and a report of the review provided to the Minister, before the fifth anniversary of the appointment of at least 8 members of the Council.

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Part 4—Ministerial Council on Women's Equality

- (2) The Minister must cause a copy of the report of the review to be laid before each House of the Parliament within 10 sitting days after the report is completed.

Part 5—Other matters

26 Regulations

- (1) The Governor in Council may make regulations for or with respect to any matter or thing required or permitted by this Act to be prescribed or necessary to be prescribed to give effect to this Act.
- (2) Without limiting subsection (1), the regulations may prescribe matters for or in relation to the following—
 - (a) matters to be included in Gender Equality Action Plans;
 - (b) workplace gender equality indicators;
 - (c) the method by which defined entities must report on matters relating to gender equality;
 - (d) the defined entities that are required to take reasonable steps and demonstrate reasonable progress towards meeting gender equality targets;
 - (e) the gender equality targets that apply to defined entities.
- (3) Regulations made under this Act—
 - (a) may be of general or limited application;
 - (b) may differ according to differences in time, place or circumstance;
 - (c) may leave any matter or thing to be from time to time approved, determined, applied, dispensed with or regulated by a specified person or class of persons;

- (d) may provide in a specified case or class of case for the exemption of persons or things or a class of persons or things from any of the provisions of the regulations, whether unconditionally or on specified conditions and either wholly or to the extent specified;
 - (e) may confer powers or impose duties in connection with the regulations on any specified person or specified class of persons;
 - (f) may apply, adopt or incorporate, with or without modification, any matter contained in any document, code, standard, rule, specification or method formulated, issued, prescribed or published by any person or body—
 - (i) wholly or partially or as amended by the regulations; or
 - (ii) as formulated, issued, prescribed (whether under this or any other Act) or published at the time the regulations are made or at any time before then; or
 - (iii) as formulated, issued, prescribed (whether under this or any other Act) or published from time to time.
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Endnotes

1 General information

See www.legislation.vic.gov.au for Victorian Bills, Acts and current authorised versions of legislation and up-to-date legislative information.